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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO. CONFIRMATION NO.	
09/495,729	02/01/2000	Scott R. Rossow	M297.12-148 5222	
7590 01/28/2004			EXAMINER	
Joseph R Kelly			TO, TOAN C	
Westman Champlin & Kelly PA Suite 1600 International Centre 900 Second Avenue South Minneapolis, MN 55402-3319			ART UNIT	PAPER NUMBER
			3616	
			DATE MAILED: 01/28/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

•	Application No.	Applicant(s)				
Office Action Comments	09/495,729	ROSSOW ET AL.				
Office Action Summary	Examiner	Art Unit				
	Toan C To	3616				
The MAILING DATE of this communication apperent of the Reply	ears on the cover she it with th	correspondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply if NO period for reply is specified above, the maximum statutory period we Failure to reply within the set or extended period for reply will, by statute,  - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).  Status	within the statutory minimum of thirty (30) do ill apply and will expire SIX (6) MONTHS fro cause the application to become ABANDON	timely filed  ays will be considered timely.  m the mailing date of this communication.  IED (35 U.S.C. § 133).				
1) Responsive to communication(s) filed on 10-2	7-2004					
2a)⊠ This action is <b>FINAL</b> . 2b)□ Thi	s action is non-final.					
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims	ex parte Quayle, 1955 C.D. 11,	493 O.G. 213.				
4)⊠ Claim(s) 1-7,10-22 and 24-35 is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5)⊠ Claim(s) <u>2-7,10-22 and 24-33</u> is/are allowed.						
6)⊠ Claim(s) <u>1, 34-35</u> is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) are subject to restriction and/or	election requirement.					
Application Papers						
9) The specification is objected to by the Examiner 10) The drawing(s) filed on 01 February 2000 is/are	_	to by the Examiner				
10)⊠ The drawing(s) filed on <u>01 February 2000</u> is/are: a)⊠ accepted or b)□ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
11) The proposed drawing correction filed on is: a) approved b) disapproved by the Examiner.						
If approved, corrected drawings are required in reply to this Office action.						
12)☐ The oath or declaration is objected to by the Examiner.						
Priority under 35 U.S.C. §§ 119 and 120						
13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a)☐ All b)☐ Some * c)☐ None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
<ul> <li>3. Copies of the certified copies of the prior application from the International Bur</li> <li>* See the attached detailed Office action for a list of the prior action for a list of the list of the prior action for a list of the pr</li></ul>	eau (PCT Rule 17.2(a)).	-				
14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).						
<ul> <li>a)  The translation of the foreign language profile</li> <li>15)  Acknowledgment is made of a claim for domestic</li> </ul>						
Attachment(s)						
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) 🔲 Notice of Informa	ary (PTO-413) Paper No(s) al Patent Application (PTO-152)				

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#### **DETAILED ACTION**

### Claim Rejections - 35 USC § 112

- 1. The following is a quotation of the second paragraph of 35 U.S.C. 112:
  - The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
- 2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claim 1, recitation "an electronic controller .... being spaced apart from the electronic controller" is unclear. Further, recitation "electronic controller being control computer to an attachment" is unclear as to meaning.

# Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
- 4. Claims 1 and 34-35, as best understood by the examiner, are rejected under 35 U.S.C. 102(e) as being anticipated by Loraas et al (U.S. 5,957,213)

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome

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either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Loraas et al discloses that an attachment control device for use with the power machine with the following: an electronic controller (212) coupler to the control computer (214), the electronic controller being configured to receive an identification signal (column 7, line 49) from an attachment and provide the signal to the control computer to control the attachment; an input device (227) spaced apart from the control computer and having an engine start mechanism (250) for starting the engine on the power machine; wherein the input device control flow of hydraulic fluid to the attachment based on the identification signal.

# Allowable Subject Matter

5. Claims 2-7, 10-22, and 24-33 are allowed.

## Response to Arguments

- 6. Applicant's arguments filed October 27, 2004 have been fully considered but they are not persuasive. The claim as amended still read on prior art reference as to Loraas et al (U.S. 5,957,213).
- 7. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., electronic controller ....being spaced apart from the control computer) are not recited in the rejected claim(s). Although the claims are interpreted in light of the

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specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

#### Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan C To whose telephone number is (703) 306-5951. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-

1113.

To, T

January 23, 2004

Similar du /26/